

IDAHO FALLS, WEDNESDAY, SEPTEMBER 10, 2008 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**DOUGLAS L. PORTER and MARCIA Y.
PORTER,**

Plaintiffs-Appellants,

v.

**MARTHA O. BASSETT and ANGIE
MENDENHALL,**

Defendants-Respondents,

and

**JOHN DOE I and JOHN DOE II, and all
other persons unknown claiming any right,
title, estate, lien or interest in the real
property described in the complaint adverse
to plaintiffs' ownership or any cloud on
plaintiffs' title,**

Defendants.

Docket No. 33828

Appeal from the District Court of the Sixth Judicial District of the State of Idaho,
Caribou County. Hon. Don L. Harding, District Judge.

Merrill & Merrill, Pocatello, for appellants.

Racine, Olson, Nye, Budge & Bailey, Chtd., Boise/Pocatello, for respondents.

This case involves a dispute over property located in Caribou County, Idaho. Appellants Doug and Marcia Porter own land that is bordered on the east and north by property owned by Respondent Angie Mendenhall, and formerly owned by Respondent Martha Bassett, now deceased. The dispute between the parties focuses on the Porters' construction of partition fences between the two parcels, and the filing of a quitclaim deed by Mendenhall, purportedly conveying Porters' land from Bassett to Mendenhall.

In 2005, the Porters brought an action against Bassett and Mendenhall to quiet title and for breach of contract, tortious interference with contract, slander of title, and damages incurred in the construction of the fences pursuant to I.C. § 35-103. Mendenhall counterclaimed, arguing she owned the Porters' property by virtue of adverse possession or boundary by agreement. Mendenhall's claims were later withdrawn and a quitclaim deed was given to the Porters to remove any cloud of title.

The district court granted Mendenhall's cross-motion for summary judgment on the Porters' claims. In doing so, it determined the location of the boundary line between the property parcels and that I.C. § 35-103 did not entitle the Porters to force Mendenhall to complete the proposed fence on the north side of the hollow or receive reimbursement for the constructed fences.

The Porters raise various issues upon appeal. They argue that the court erred in determining the boundary line on summary judgment and in determining that I.C. § 35-103 did not apply. The Porters also argue that the court erred in denying them a trial on the slander of title claim and declining to award attorneys' fees and costs.

IN THE SUPREME COURT OF THE STATE OF IDAHO

In the Matter of the Person of:)	
)	
JONATHON L. HUDELSON.)	
<hr style="width: 50%; margin-left: 0;"/>)	
STATE OF IDAHO DEPARTMENT)	
OF HEALTH AND WELFARE,)	
)	
Plaintiff-Appellant,)	Docket No. 34495
)	
v.)	
)	
JONATHON L. HUDELSON,)	
)	
Defendant-Respondent.)	

Hepworth, Lezamiz & Janis, Chtd., Twin Falls, for respondent.

Jonathon settled his claim with the alleged tortfeasor. While the Department agreed to the settlement amount, it did not stipulate to any allocation of the settlement. Jonathon presented a proposed settlement allocation to the magistrate court which stated that he had settled for approximately 1/27 of the total value of his claim. Based on that allocation, Jonathon argued that the Department was entitled to only 1/27 of the amount of Medicaid benefits it paid. The Department argued that it was entitled to the full amount it paid on Jonathon's behalf, and that it could recover from portions of the settlement allocated for past and future medical expenses. The Department also asserted that it had not agreed to the settlement allocation, and so should not be bound by its terms.

The magistrate court held that the amount Jonathon allocated for past medical benefits was sufficient to satisfy the Department's interest. The Department appealed to the district court, which affirmed the trial court.

The Department appealed to this Court. It argues that the district court erred by limiting its recovery to the portion of the settlement allocated to past medical expenses, and by disregarding Idaho's statutory presumption that unallocated settlements represent the Department's interest first.

IDAHO FALLS, WEDNESDAY, SEPTEMBER 10, 2008 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**TETON PEAKS INVESTMENT CO., LLC,)
an Idaho limited liability company,)**

Plaintiff-Appellant,)

v.)

**E. FRANK OHME and MAUREEN OHME,)
husband and wife,)**

Defendants-Respondents.)

Docket No. 34642

Appeal from the Seventh Judicial District of the State of Idaho, Bonneville County. Hon. Richard T. St. Clair, District Judge.

Thomsen Stephens Law Offices, PLLC, Idaho Falls, for appellant.

Hopkins, Roden, Crockett, Hansen & Hoops, Idaho Falls, for respondent.

This case arises out of a boundary dispute between Teton Peaks Investment Co., LLC (Teton Peaks), and E. Frank Ohme and Maureen Ohme, husband and wife (the Ohmes). Teton Peaks and the Ohmes own adjacent parcels of real property. Between the two properties lies a fence which is not the true boundary line. The fence encroaches on Teton Peak's property by 0.29 acres. Teton Peaks filed suit against the Ohmes to quiet title to the 0.29 acres of real property, additionally alleging trespass, damages and unjust enrichment. The Ohmes answered with a counterclaim and an affirmative defense alleging boundary by agreement. The district court granted summary judgment in favor of the Ohmes, finding that the encroaching fence established boundary by agreement and that no unjust enrichment had occurred. Teton Peaks appeals that decision.